## IN THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF NORTH CAROLINA ASHEVILLE DIVISION 1:06cr167-5

UNITED STATES OF AMERICA,	)	
	)	
Vs.	)	ORDER
JIMMY DEAN SCOTT, JR.,	)	
Defendant.	)	

THIS CAUSE coming on to be heard and being heard before the undersigned upon a violation report filed in the above entitled cause on January 17, 2007 alleging that the defendant has violated terms and conditions of pretrial release. It appearing to the court at the call of this matter on for hearing that the defendant was present but his attorney, Walter Daniels was not present due to the fact that he had been scheduled to be out of his office from January 22<sup>nd</sup> until January 29<sup>th</sup>. The undersigned conducted an initial appearance for the defendant and considered the issue of whether or not to release the defendant pending hearing on the violation report. The Government moved for the detention of the defendant.

**Findings**: The defendant was charged in a bill of indictment filed on August 7, 2006 with conspiracy to possess with intent to distribute cocaine and cocaine base, schedule II controlled substances. On December 18, 2006 the defendant entered a plea of guilty to that offense. In the violation report that has been filed, it is alleged that on January 15, 2007 three males came into the defendant's residence, took the defendant outside the residence, then brought the defendant back into the residence and kept asking the defendant "where the

money was". The defendant was then shot in the thigh by these persons. It is also alleged that the persons had placed a gun to the head of a fourteen year old minor and that the defendant's sister was present during the incident. It is further alleged that the defendant violated the condition of bond that requires him to report as soon as possible to the United States Probation Officer any contact that he has with any law enforcement personnel.

The defendant's counsel cannot be present for there to be a hearing previous to January 29, 2007. 18 U.S.C. § 3142(f)(2) provides that a detention hearing shall "be held immediately upon the person's first appearance before the judicial officer unless that person or the attorney for the Government, seek a continuance. Except for good cause, continuance on motion of such person may not exceed five days and a continuance on motion of the attorney for the Government may not exceed three days". The undersigned is of the opinion that good cause has been shown for extending the time for not only the detention hearing of the defendant, but also extend the time for the hearing of the violation report. It appears from the allegations in the violation report that the release of the defendant would create a danger of risk or harm to any person in the community, including and specifically being the defendant himself and members of the defendant's family and any other person in the defendant's mother and father's home. To release the defendant would subject him to such harm and danger and as a result, the undersigned has determined that good cause has been shown for extending the time for the hearing of not only the issue of detention, but also the hearing of whether or not the defendant violated the terms and conditions of pretrial release to January 29, 2007.

## **ORDER**

IT IS THEREFORE **ORDERED** that the hearing of the violation report and determine the issue of detention of the defendant is hereby continued until January 29, 2007 at 10:15 a.m.

Signed: January 29, 2007

Dennis L. Howell United States Magistrate Judge